



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 30, 1996

Ms. Claudia Nadig
Texas Workers' Compensation Commission
Southfield Building, MS-4D
4000 South IH-35
Austin, Texas 78704-7491

OR96-0638

Dear Ms. Nadig:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 38968.

The Texas Workers' Compensation Commission (the "Commission") received a request for the following information:

1. All final judgments from any and all district courts in the State of Texas regarding Texas Workers' Compensation Commission Appeals Panels Decisions that were appealed to a district court.
2. The Texas Workers' Compensation Commission Appeal Number for all Texas Workers' Compensation Appeal Panel Decisions that are the subject of the final judgments referenced in Request No. 1.

You assert that the requested information is excepted from required public disclosure pursuant to section 552.101 of the Government Code in conjunction with section 402.083(a) of the Labor Code. Section 552.101 of the Government Code excepts from disclosure information that is deemed confidential by law, including information that is deemed confidential by statute. You raise section 552.101 in conjunction with section 402.083(a) of the Labor Code, which provides as follows:

Information in or derived from a claim file regarding an employee is confidential and may not be disclosed by the commission except as provided by this subtitle.

You aver that the district court judgments are part of the claim file because

the subject matter considered at a trial in the district court consists solely of the subject matter considered by the commission in its dispute resolution proceedings on the claim. . . . In fact, the trial court judgments are equivalent to decisions made by the Commission at its benefit contested case hearings. Those decisions are treated as confidential and only those persons entitled to obtain *claim file information under Section 402.084(b)* are allowed access to benefit contested case hearings because the decisions do not establish precedent and are applicable only to the parties in the specific claim. . . . [t]he district court decisions in the possession of the Commission are merely an inextricable element of a claim file. . . .

We do not believe we need to decide here whether the requested judgments are part of a claim file for purposes of section 402.083(a) of the Labor Code. Our reasoning follows.

After exhaustively examining the Texas Workers' Compensation Act as a whole, as well as its legislative history, this office concluded that the legislature intended section 402.083(a) to apply narrowly so as to make confidential only information in or derived from a claim file that explicitly or implicitly discloses the identities of employees who file workers' compensation claims. *See* Open Records Decision No. 619 (1993). In other words, the protection of section 402.083(a) does not extend to claim file information that does not implicitly or explicitly reveal a claimant's identity. *See id.* Thus, if we were to conclude that the requested judgments are claim file information as you suggest, under Open Records Decision No. 619 (1993), only information in the judgments that explicitly or implicitly discloses the claimants' identities would be made confidential by the statute.

The requestor informs us that he does not seek information regarding the claimants' identities. Thus, the requestor does not seek the part of the judgments that could possibly be within the coverage of the statute: information that discloses, either explicitly or implicitly, the claimants' identities. Thus, if we were to decide whether the judgments are part of a claim file for purposes of section 402.083 --a decision we do not make-- the confidentiality of that provision would not reach the information the requestor seeks, the information in the judgments that does not identify the claimants. As section 402.083(a) does not *make confidential the information in the judgments that does not explicitly or implicitly disclose the claimants' identities, see id.*, and as you raise no other exception to the required public disclosure of the requested information, we conclude that the Open Records Act grants access to the information in the requested judgments that the requestor seeks to obtain.¹

¹You argue that "the requested information is inextricably intertwined in the documents requested with facts, descriptions of the claims and explanations of the alleged injuries which will implicitly disclose the claimants' identities [so that] . . . the requested documents cannot be redacted in a way that will not

You raise no exception to the public release of the appeal numbers of the Commission appeal panel decisions that are the subject of the requested judgments. Furthermore, you inform us that the Commission discloses to the public redacted copies of the appeals panel decisions. Thus, we assume the Commission has, or will, release the requested appeal numbers to the requestor.²

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 38968

(Footnote continued)

either explicitly or implicitly reveal the [claimants'] identities." We do not believe you have established how the disclosure of facts, claim descriptions or explanations of the alleged injuries in a particular judgment implicitly discloses the claimant's identity in that judgment. *Cf. Open Records Letter No. 94-068 (1994)* (concluding that claimant's birthdate and insurance identification number implicitly disclose claimant's identity, but claimant's sex, race, ethnicity, supervisor, location of where injury occurred, witnesses' names, and name of person who prepared TWCC-1 form do not implicitly disclose claimant's identity). Moreover, you inform us that the Commission currently releases to the public redacted copies of appeals panel decisions. Thus, we cannot agree that the identifying information is inextricably intertwined with the non-identifying information so as to destroy the viability of releasing the judgments with redaction of the identifying information from the judgments. Nor have you established that, as you assert, the pairing of redacted final judgments and appeal panel decisions will allow the requestor to identify a claimant.

²In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office. We have also marked some of the submitted documents that do not appear to be responsive to the request.

